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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,272	02/03/2000	David W. LaFore	J99.10	7295
22442	7590	11/04/2003	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/497,272

Applicant(s)

LAFORE ET AL.

Examiner

Frantzy Poinvil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1--2, 4-10 and 13-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-10 and 13-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-10 and 13-48 remain rejected under 35 U.S.C. 102(b) as being anticipated by Hawkins (US Patent No. 5,497,317) as set forth in the prior Office action.

Applicant's representative argues that claims 1-10 and 28-37 should be treated as either a product claim or a process claim and that each and every piece of structure and functional descriptive material must be evaluated by the Examiner.

In response, the Examiner has properly rejected the instant claims. Upon a brief analysis, it is noted that the Examiner has properly provided the location where each claimed feature is found in the reference. Furthermore, it is clearly illustrated in figure 1 and described on columns 5 and 6 that there exists a computer processor means for processing data, a storage means for storing said data on a storage medium and communication means for transmitting and receiving data in a secure environment to and from various remote locations (figure 1 and column 4, lines 19-44) of Hawkins. Hawkins further teaches first computer software means for creating trade data concerning particular trades to be executed in the form of a trade record (column 5, lines 12-38) and means for monitoring the modification of trade data in respective trade records which are created by the first computer software means said means for monitoring including an output

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audit report (column 5, line 39 to column 6, line 50 and column 9, lines 1-15). The system also comprises second computer software means for reviewing trade data from the first computer software means and for approving or disapproving of the trade records (column 8, lines 26-37; column 7, line 62 to column 8, line 2) and third computer software means for maintaining security measures for said data processing to prevent unauthorized access and use of said trade data (column 9, lines 7-15) of Hawkins.

Applicant has also amended independent claim 13 to recite "inputting broker transaction data on a broker computer of data processing system reflective of a trade to be executed of a security" and argues such is not found in Hawkins.

In response, applicant is directed to column 9, lines 1-14 and column 6, line 64 to column 8, line 2 of Hawkins.

Applicant has also amended claim 40 to recite certain functions are being implemented by means of a first computer software means and a second computer software means.

In response, it is noted each of the claimed functions is being by software means. A first or second computer relates to the computer of the different entities discussed in Hawkins and/or illustrated in figure 1 of Hawkins.

Applicant generally argues that Hawkins does not teach or suggest specific software means for performing the claimed invention. Applicant also states that Hawkins is directly solely to facilitating the settlement of a trade among participants whereas the present invention relates to a first, second and third software means for performing the claimed invention.

Applicant also states that Hawkins indicates using an application written in C language and

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therefore, only a single type of software is installed at each participant and therefore the various software means are not taught by Hawkins.

In response, the instant claims do not specifically recites which one of a specific computer belonging to a participant is performing any specific functions. However, Hawkins teaches a first software means or a second software means is not a specific computer. A first and second software means for performing the claimed functions are taught by Hawkins. Note the format of claims 1, 13, 26, 28, 38 and 40. Thus, while the C-language is used to write the various software means of the system of Hawkins, but nowhere, in Hawkins it is indicated that only one software means or all the functions are being implemented on only one computer system. Furthermore, the various functions described in Hawkins are a multiple software means implemented on or by the various associated computers illustrated in figure 1 of Hawkins. Thus, applicant's arguments are not persuasive.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for before final communications, (703) 872-9327 for After Final communications and (703) 872-9325 for Customer Service communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP  
October 21, 2003

*FP*  
FRANTZY POINVIL  
PRIMARY EXAMINER  
443628